

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

JUSTIN E. RIDDLE,

Plaintiff,

vs.

OMAHA PUBLIC SCHOOLS,

Defendant.

8:23CV547

ORDER

This matter comes before the Court on Defendant's Objection and Response ([Filing No. 12](#)). Defendant objects to Plaintiff's "Notice" asking the Court to "exercise its authority under Rule 36 to deem to deem the undisputed fact that the phone call with Ott[o] admitted, as the documentary evidence leaves no room for plausible denial." ([Filing No. 11](#)). Defendant objects to the Notice because, to the extent it constitutes a Request for Admission under Rule 36 of the Federal Rules of Procedure, it is premature. Defendant also objects to the Notice to the extent it may be construed as a motion regarding the sufficiency of Defendant's answer or objection under Rule 36(a)(6) because no Request for Admission was validly served.

Plaintiff, pro se, commenced this action on December 13, 2023. ([Filing No. 1](#)). On January 10, 2024, Defendant filed a motion to dismiss Plaintiff's complaint for failure to state a claim and lack of standing pursuant to Rule 12(b) of the Federal Rules of Civil Procedure. That motion remains pending before the Court for disposition. As such, the Court has not yet authorized discovery to commence. See NECivR. 16.1(c)(1) ("Approximately 30 days after the last defendant files an answer, the court issues a progression order addressing discovery and other issues. No discovery may take place until this progression order is entered except upon motion and order."); Fed. R. Civ. P. 26(a)(1). Rule 36 governs the scope and procedure for Requests for Admission, which is a method of discovery. To the extent Plaintiff is requesting Defendant respond to a Request for Admission, or is asking the Court deem any matters admitted under Rule 36, those requests are denied because discovery has not yet been authorized to commence. Accordingly,

IT IS ORDERED that Defendant's Objection ([Filing No. 12](#)) is sustained.

Dated this 14th day of February, 2024.

BY THE COURT:

s/Michael D. Nelson
United States Magistrate Judge